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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ABEL GHIRMAI,

11 Plaintiff,

12 v.

13 NORTHWEST AIRLINES, INC., a Minnesota
14 corporation,

15 Defendant.

CASE NO. C02-1839RSM

ORDER ON MOTION TO CERTIFY
ORDER FOR INTERLOCUTORY
APPEAL

16 This matter is now before the Court for consideration of defendant's motion to certify an Order
17 for interlocutory appeal. Dkt. # 161. On March 10, 2009, the Court denied defendant's motion to strike
18 plaintiff's jury demand. Dkt. # 160. Defendants now assert that the issue of a jury trial for plaintiff's
19 employment discrimination claim should be certified by the Court for interlocutory appeal. The trial is set
20 to begin on April 27, 2009.

21 The district court has discretion to certify an order for interlocutory appeal when there is
22 "substantial ground for difference of opinion" and an immediate appeal "may materially advance the
23 ultimate termination of the litigation." 28 U.S.C. § 1292(b). In the Order which defendants seek leave to
24 appeal, the Court acknowledged that those courts which have addressed the question presented
25 here—namely whether an employment discrimination or civil rights claim is a "personal injury tort" within
26 the meaning of 28 U.S.C. § 157(b)(5)—are split on the issue. Dkt. # 160, p. 2. However, the Court also
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1 noted that the more recent cases indicate a trend toward finding that civil rights violations and
2 discrimination claims do constitute personal injury torts, and the Court adopted this as the better view.
3 *Id.*, p. 3-4. The Court therefore finds that the basis for a difference of opinion on this issue is not
4 sufficiently “substantial” to warrant the delay that would be caused by certifying the question for
5 interlocutory appeal. Nor would the ultimate termination of the litigation be materially advanced by
6 postponing the trial.

7 Defendant’s motion to certify the Order for interlocutory appeal is accordingly DENIED.

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9 DATED this 31 day of March 2009.

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12 RICARDO S. MARTINEZ
13 UNITED STATES DISTRICT JUDGE
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